

MINUTES
Montana Fish, Wildlife & Parks Commission Meeting
1420 East 6th Avenue – Helena Headquarters
Helena, MT

SEPTEMBER 27, 2007

Commission Members Present: Steve Doherty, Chairman; Shane Colton, Vice-Chair; Vic Workman; Dan Vermillion; Willie Doll.

Fish, Wildlife & Parks Staff Present: Jeff Hagener, Director, and FWP Staff.

Guests: See September 27, 2007 Commission file folder for those who signed in.

A Work Session to discuss the wolf season setting process and mountain lions followed the Commission meeting.

Topics of Discussion:

- 1. Opening - Pledge of Allegiance**
 - 2. Approval of Commission Meeting Minutes of July 26, 2007**
 - 3. Approval of Commission Meeting Minutes of August 2, 2007**
 - 4. Approval of Commission Meeting Minutes of August 30, 2007**
 - 5. Approval of August, 2007 Commission Expenses**
 - 6. Repeal of Administrative Rule 12.6.401 pertaining to Time Zones – Final**
 - 7. 2008 Non-Resident Combination License Rule - Tentative**
 - 8. Future Fisheries Projects - Final**
 - 9. Wing Dam FAS Donation to FWP – Final**
 - 10. Amelia Island FAS Acquisition near Hysham– Endorsement**
 - 11. Alkali Creek FAS Acquisition on Milk River – Endorsement**
 - 12. Elk Plan Adjustment (Highwood EMU) – Final**
 - 13. Elk Plan Adjustment (Bitterroot Working Group) – Tentative**
 - 14. Helena Urban Deer Quota – Final**
 - 15. Bighorn Sheep and Mountain Goat Transplant – Endorsement**
 - 16. Dahm Acquisition adjoining Woods Ranch WMA – Final**
 - 17. Noggle Creek Addition to the Bull River WMA - Final**
 - 18. Sun Ranch Easement – Informational**
 - 19. Open Microphone – Public Opportunity to Address Additional FWP Issues**
- 1. Opening - Pledge of Allegiance.** Chairman Doherty called the meeting to order at 8:30a.m. and led the Pledge of Allegiance.

2. **Approval of July 26, 2007 Commission Meeting Minutes.**
3. **Approval of August 2, 2007 Commission Meeting Minutes.**
4. **Approval of August 30, 2007 Commission Meeting Minutes.**
5. **Approval of August, 2007 Commission Expenses.**

Action: Workman moved and Colton seconded the motion to approve the July 26, 2007 minutes, the August 2, 2007 minutes, the August 30, 2007 minutes and the August, 2007 expenses. Motion carried.

6. Repeal of Administrative Rule 12.6.401 pertaining to Time Zones – Final. The sunrise / sunset tables published in the hunting and fishing regulations conflict with the tables that are published in Administrative Rule 12.6.401. **Jim Kropp, FWP Enforcement Division Administrator**, explained that one such example of this conflict is the change of daylight savings time from October to November. FWP already has the authority to adjust the timetables as part of the annual hunting and fishing rules, so any revisions can be made on an annual basis. No public comments were received.

Action: Colton moved and Vermillion seconded the motion to approve the repealing of ARM 12.6.401 pertaining to time zones. Motion carried.

7. 2008 Non-Resident Combination License Rule – Tentative. **Hank Worsech, FWP License Bureau Chief**, said the Variable Priced Licensing Advisory Committee met August 6 to determine fee recommendations for the 2008 outfitter sponsored licenses, which were oversold again in 2007 as they have been in the past several years. Additionally, changes are recommended for outfitter-sponsored licenses and for Deer A licenses.

The committee recommended a quota of 5,000 B-10 Outfitter Sponsored Big Game Combination licenses at \$1,500 per license, a quota of 2,000 B-11 Outfitter Sponsored Deer Combination licenses at \$1,100 per license, and a quota of 5,000 B-10 Outfitter Sponsored Elk Combination licenses at \$1,400 per license.

Commissioner Colton sits on the committee, and stated there was a great deal of discussion on this topic. He felt the big game combination licenses should sell at a higher price because we are over quota. Colton declared that if they are oversold again, the prices will go up sharply. The prices could possibly be doubled next year.

Worsech said that due to abuse of the outfitter-sponsored licenses by folks who cancel their reservations with outfitters and then use the licenses themselves, the committee supported the recommendation by the Montana Outfitters and Guides Association to send outfitter-sponsored licenses directly to the outfitters rather than to the clients.

Another change was proposed concerning the Deer A licenses. When nonresident hunters choose not to purchase a Deer A license as a part of the Big Game Combination License, the license becomes an Elk Combination License. Each year, in May, the Commission decides whether to reissue these separated nonresident Deer A licenses, and has historically reissued all of the licenses in accordance with the procedures contained within the annual rule. The proposed amendment would eliminate readdressing the reissuance of Deer A licenses each May.

Worsech added that the 2008 deadline has been changed to March 17 so it does not fall on a Saturday.

Action: Vermillion moved and Workman seconded the motion to approve the tentative 2008 Non-Resident Combination License Rule and proceed with advertising it for public comment. Motion carried.

Chairman Doherty asked for public comment. There was none.

Action on Motion: Motion carried.

8. Future Fisheries Projects – Final. The Future Fisheries Improvement Program provides funds for projects that restore fishery habitats in streams, rivers, and lakes that benefit wild fish populations. Applications to the program are reviewed twice each year by a Governor-appointed citizen review panel who forwards their recommendations to the Commission for approval. **Glenn Phillips, FWP Fisheries Habitat Protection Bureau Chief**, submitted fifteen recommended projects at a cost of \$310,000.

Action: Colton moved and Vermillion seconded the motion to approve the Future Fisheries Review Panel's recommendations. Motion carried.

9. Wing Dam FAS Donation to FWP – Final. **Glenn Phillips, FWP Fisheries Habitat Protection Bureau Chief**, explained that this proposal is to accept the donation, fee simple, of the 22-acre Willow Bend Island, adjacent to Wing Dam FAS, on the Missouri River near Cascade. The Environmental Assessment was completed with the preferred alternative being to accept the donation of the island for incorporation into the Wing Dam FAS, and to develop it with trails, signs, parking area and fencing. Of the twenty-five comments that FWP received, sixteen were opposed to any development, so at this point, the recommendation is to acquire the site and leave it as is with no development. The majority of comments in opposition originated from adjacent neighbors who expressed concern about trespass and firearms issues.

Gary Bertellotti, FWP Region 4 Supervisor, noted that there have been discussions with Burlington Northern Santa Fe Railroad (BNSF) for developing a legal crossing, however they are reluctant to grant one at this time, even though the railroad line has not been used for over twelve years. Negotiations will continue.

This site would be for day use only. It currently receives a lot of use by floaters. Shotguns and archery equipment will be permitted for bird and deer hunting. Signage will be posed at the existing FAS, and if FWP is successful in securing an easement, additional signage will be provided.

Colton felt that some limited development is necessary, that the original alternative would control traffic patterns and direct people.

Action: Colton moved and Vermillion seconded the motion to accept the donation of the 22-acre Willow Bend Island parcel as an addition to the existing Wing Dam Fishing Access Site

Chairman Doherty asked for public comment.

Carol Anderson, a property owner near the site, said this island is in the floodplain, and inquired how it would be signed to show the public where the island ends and where their private property begins. They don't want people on their lawn.

Bertellotti said there are plans to place signs on the island that indicate public and private access. Since part of the island becomes submerged at times, and ice jams occur, there will be a continued maintenance issue. Wardens and the local sheriff's office have authority to deal with trespass matters.

Action on Motion: Motion carried.

10. Amelia Island FAS Acquisition near Hysham– Endorsement. Hugh Zackheim, FWP Field Services Land Section Supervisor, presented this proposed acquisition, through donation, of three to five acres of riverfront property along the Yellowstone River near Hysham for use as a fishing access site. The closest fishing access sites are seven miles upstream and twenty miles downstream. The adjacent Amelia Island Wildlife Management Area does not provide a suitable site for boat access to the river. FWP will work with the landowner to negotiate an agreement to complete the land donation if the commission endorses this project. It is anticipated that there will be great support for the project.

Action: Colton moved and Vermillion seconded the motion to authorize the Department to pursue acquisition of the Amelia Island fishing access site. Motion carried.

11. Alkali Creek FAS Acquisition on Milk River – Endorsement. Hugh Zackheim, FWP Field Services Land Section Supervisor, explained that this 3.5-acre site is located on the Milk River near Malta. The landowner has allowed the public to use this area for bank fishing and now is willing to negotiate the development of a FAS. The proposed FAS would provide parking, a latrine, signs, and a trail to the riverbank. There are only two other fishing access sites on the Milk River - one is 229 miles upstream, and the other is 77 miles downstream from this site.

Action: Doll moved and Colton seconded the motion to approve authorization for the Department to pursue acquisition of the Alkali Creek fishing access site. Motion carried.

12. Elk Plan Adjustment (Highwood EMU) – Final. Quentin Kujala, FWP Wildlife Management Bureau Chief, stated there are no changes to the tentatives. The working group recommended the increase from 550 to 700.

Action: Doherty moved and Colton seconded the motion to adopt the Highwood EMU Elk Plan objective change as recommended by the Department. Motion carried.

13. Elk Plan Adjustment (Bitterroot Working Group) – Tentative. Quentin Kujala, FWP Wildlife Management Bureau Chief, said the current objectives have been in effect since 2005, so the working group has proposed the following changes:

Increase Elk Plan objective in West Fork EMU (HD 250) from 1400 to 2000.

Increase Elk Plan objective in Sapphire EMU from 3400 to 3800. The HD 270 objective would increase from 2600 to 3000.

Decrease Elk Plan objective in Rock Creek EMU from 2500 to 2370. The combined objectives of HDs 204 and 261 would decrease from 1450 to 1320.

Action: Vermillion moved and Workman seconded the motion to adopt as tentative the West Fork, Sapphire and Rock Creek EMU Elk Plan objective changes as presented by the Department.

Chairman Doherty asked for public comment. There was none.

Action on Motion: Motion carried.

14. Helena Urban Deer Quota – Final. The City of Helena developed an Urban Deer Management Plan and received tentative Commission approval at the August meeting. **Quentin Kujala, FWP Wildlife Management Bureau Chief**, stated that city leaders preferred the use of professional sharpshooters for deer removal during the 2007-2008 winter. At the August Commission meeting, a tentative quota of 350 deer was adopted, effective between October 15, 2007 and February 15, 2008. The city conducted a census to arrive at the number. Implementation details have yet to be developed.

Extensive public comments were received. They included opposition to the entire project, support of the proposal, problem definition, suggestions that another approach should be undertaken, concerns relative to spending FWP money, procedural concerns, etc.

FWP identified viable sideboards, and the Commission's role be to insure the public is included in the process. No party should benefit commercially, and carcasses should be equitably distributed.

Vermillion asked if FWP staff has time to be involved in this, and if something goes awry, will FWP be held responsible. Kujala replied that since this is a priority project, time will be made even though it will test other priorities that have time commitments. Yes, the Department will receive negative criticism if things go awry. The city has spoken of developing a committee that will need to be involved. Vermillion stated that FWP must make it clear to the city and the public that FWP is not driving this project, but is only overseeing the process and quota. He does not want Department personnel to have to defend this.

Tim Burton, City of Helena, said the city has no statutory ability to manage wildlife, but FWP does. A part of the statute calls for participation with FWP. They will either continue the partnership or not. If the Commission decides against this proposal, the city's role ends. If the commission approves it, they will work together with a strategy. The Montana Food Bank might want the meat, and Montana State Prison would like it, and a tribe has indicated they want the hides and antlers.

Workman asked what percentage of the comments were in opposition to this program. Kujala replied that 34% supported non-lethal means and 14% were opposed to the cull approach.

Workman said it is similar to the bear situation in Montana. He said outside of an aggressive deer, leave them alone. If people don't want deer eating their shrubbery, erect a fence. In the long run, FWP will suffer bad publicity. Deer populations come and go. This is not an acceptable plan.

Doll said if this is approved, where does the Department go next, what cities are next? Are we opening up something we aren't capable of handling?

Colton and Doherty expressed frustration at this unfunded mandate from the legislature. FWP has to be involved but there has been no money allocated from the general fund for staff time and involvement expenses. It is unreasonable for the Department and sportsmen to fund this. The Department will be criticized regardless of which way the decision is made.

Doherty asked what the overall population of deer that live in the city limits is, and what was the basis for selecting the quota of 350 as opposed to another number. Kujala replied that a task force conducted a deer survey, inclusive of mortality rates, and arrived at the number of 350. The quota is for either sex.

A great deal of discussion ensued regarding the relationship between the city and FWP, public health and safety as compared to nuisance, expenses to the department, vehicle collisions, and associated costs. Doherty was uncomfortable with the sharpshooter aspect of the plan, as well as with the quota of 350, and was uncertain if he favored lethal control at all.

Currently the deer that are culled are shot. There have been 14 over the last 4 years that have shown aggressive behavior. Mike Korn, FWP Enforcement Division, said the wardens respond when there is a public safety issue because they have expertise in dealing with wildlife even though the urban deer are not wild. They are shot with 22s, and since they are so tame, it creates a difficult situation. The cull season will coincide with hunting season so warden's will be extremely busy, however they will do what is necessary.

Jeff Herbert, FWP Wildlife Division Assistant Administrator said FWP's level of response continues if they are culled or not.

Hagener said this is not a one-time event.

Action: Doherty moved and Vermillion seconded the motion to amend the quota to 100 deer.

Workman asked if bucks will be the target or if it will be either-sex. Korn said it will be a mix of does and bucks. Fawns will be culled too if a doe is killed. Colton stated that these are animals that some people just want dead and has nothing to do with hunting.

Peterman said the quota sets the framework and does not mean that 350 absolutely have to be killed.

Doll asked how aggressive deer problems compare with aggressive dog problems.

Chairman Doherty asked for public comment.

Carol Tabler, said she had received a copy of the comments, and they are overwhelmingly against lethal means. She is against the motion – the urban wildlife task force did not do a good job of sampling the public's opinion and does not accurately represent what the people want. She is "against any lethal means – period"!

Gretchan Grayum, Helena resident and landscaper, offered to donate her time to build deer fences to keep deer out of gardens and shrubs. She suggested it may be more productive to do something positive rather than killing the deer.

Heidi Wendel, Helena, said she attended task force meetings out of curiosity to take a pulse on what was happening. She said deer are considered a nuisance to only some people. The estimated count that was derived from the survey was from only one time period in December. More counts should be taken at different times. Many decisions are being made based on only one time period. There is no way to know for sure the count of deer as they weave in and out of the city. She is against any lethal action. She is against baiting and slaughtering the deer.

Vermillion asked if there are other conditions the Department must approve. Hagener stated that the sharpshooter portion of the plan must be worked out. Time periods and distribution of carcasses must also be decided.

Action on Motion: Motion failed. (Doll, Colton and Workman opposed).

Colton noted that limited urban planning is creating deer issues, and expending staff resources to a great degree. Cities need to go to the legislature to request money to reimburse FWP.

Action: No further motion was made by the Commission. The urban deer quota proposal failed - no action will take place.

15. Bighorn Sheep and Mountain Goat Transplant – Endorsement. **Quentin Kujala, FWP Wildlife Management Bureau Chief**, stated that transplanting is an effective management and population control tool. Last year, over two hundred sheep were sent to out-of-state locations, and subsequently it was made clear that Montanans value sheep harvest over out-of-state releases.

Three source populations have been identified:

Region 6 - the north side of the Missouri Breaks in HDs 622 and/or 680

Region 4 - HDs 422 and 424 in the Sun River

Region 1 - Wild Horse Island

Approximately 25 sheep are available in Region 6 for augmentation of sheep already in the west end of the Pryor Mountains of Region 5. Approximately 50 sheep are available in Region 4 for augmentation of sheep in the Highland Mountains of Region 3. Approximately 30 sheep may be available from the Wild Horse Island population. 10 mountain goats are available for capture from Round Butte in HD 460. These would most likely serve as augmentation to the existing goat distribution along or within the Rocky Mountain East Front. FNAWS and SCI have offered funding assistance toward transplanting the animals.

Action: Workman moved and Colton seconded the motion to endorse these potential transplants as presented by the Department.

Doll inquired if FWP has looked at Garfield County as a potential release site. Bryce Christensen, FWP Region 7 Supervisor, said this area has indeed been discussed as a site, however the close proximity to domestic sheep is a concern. They will continue to look into it.

Action on motion: Motion carried with the stipulation that Garfield County be further explored as a potential site.

Chairman Doherty asked for public comment.

Jim Weatherly, MT Chapter of FNAWS, encouraged approving this proposal. Their goal is to increase sheep populations in Montana. FNAWS has funding to provide toward the endeavor. The concerns surrounding last year's out-of-state transplants were noted, however some of the FNAWS Chapters are located out-of-state.

Tom Powers, President, MT Chapter of FNAWS, said the out-of-state FNAWS chapters are overwhelmingly in support of this proposal. Montana offers the best opportunities. "The funds will keep rolling in".

The Commission expressed appreciation to FNAWS for their support.

Action on Motion: Motion carried.

16. Dahm Acquisition adjoining Woods Ranch WMA – Final. Steve Knapp, FWP Wildlife Habitat Bureau Chief, explained that FWP proposes to purchase seventeen acres adjoining the Woods Ranch Wildlife Management Area from Martha Dahm for \$145,000. The property is surrounded on three sides by the WMA and is located seven miles north of Eureka. The habitat is good for elk, mule deer, and bighorn sheep. The Sheep Auction Fund would provide the funding for the fee title purchase. All comments were in support of the proposal. There were no changes from the tentatives.

Action: Doll moved and Workman seconded the motion to approve the purchase of the proposed Dahm Acquisition of 17 acres of land adjacent to the Woods Ranch WMA as described in the Department's decision notice of August 16, 2007. Motion carried.

17. Noggle Creek Addition to the Bull River WMA – Final. Steve Knapp, FWP Wildlife Habitat Bureau Chief, explained that FWP proposes to acquire 255 acres of crucial habitat, twenty of which are wetlands, adjacent to the Bull River WMA. This fee title acquisition would improve the integrity of the Bull River WMA for wildlife, particularly bears and elk, and would provide a travel corridor for wide-ranging wildlife between the East and West Cabinet Mountains, and would provide public access. The purchase price is \$1,657,500, and would be funded with Habitat Montana funds. Public comment was supportive. Residential development will occur if FWP does not act on this.

Action: Workman moved and Colton seconded the motion to approve the purchase of the Noggle Creek addition to the Bull River WMA, as described in the Department's decision notice of September 11, 2007. Motion carried.

18. Sun Ranch Easement – Informational. Steve Knapp, FWP Wildlife Habitat Bureau Chief, stated that Roger Lang informed FWP he wanted to break off negotiations on the easement. No terms had been agreed upon after a year of discussion. A conservation easement will likely take place on the land in the future using 4.5 million dollars of LWCF money. If Lang uses value from his property it will suit the required match for federal dollars. FWP will continue to work with Mr. Lang regarding access issues.

19. Open Microphone – Public Opportunity to Address Additional FWP Issues. There were none.

Action: Colton moved and Workman seconded the motion to adjourn the meeting. Motion carried.

Meeting adjourned at 11:30 a.m.

Steve Doherty, Chairman

M. Jeff Hagener, Director